

AMENDED IN SENATE APRIL 27, 2010

SENATE BILL

No. 1097

Introduced by Senator Strickland

February 17, 2010

An act to amend Sections 2791, 2792, 2793, 2794, 2795, 2796, 2797, 2798, and 2799 of the Public Utilities Code, relating to utility services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1097, as amended, Strickland. Gas and electric utility service: master-meter customers.

~~(1) Under~~

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations. Existing law authorizes the owner of a master-metered mobilehome park or manufactured housing community that provides gas or electric service to residents to transfer ownership and operational responsibility for its gas or electric system to the gas or electric corporation providing service in the area in which the park or community is located, pursuant to specified transfer and cost allocation procedures.

This bill would correct existing references in the above-described master-meter system transfer statutes by revising an “electric corporation” to an “electrical corporation.” The bill would require a gas or electrical corporation that receives an offer to transfer a gas or electric system from a master-metered mobilehome park or manufactured housing community that is within its service territory to accept transfer if certain criteria are met and require the corporation to assign a representative who will have responsibility for oversight of the proposed transfer, until the transfer is complete or the transfer process is terminated. The bill would require a gas or electrical corporation to

provide the commission with copies of certain notices, reports, and estimates generated during the transfer process and would require the commission, upon receipt of these materials, to monitor and facilitate the transfer until the transfer is completed or the transfer process is terminated. The bill would authorize the owner of a master-metered mobilehome park or manufactured housing community to bring a complaint before the commission for violation of the transfer laws and require the commission to establish an expedited procedure for the review of the complaint and to ensure that a final determination of the issues raised by the complaint be reached not later than one year after filing of the complaint.

~~(2) Existing law requires the commission to permit a gas or electrical corporation to recover in its revenue requirement and rates all costs to acquire, improve, upgrade, operate, and maintain transferred mobilehome park or manufactured housing community gas or electric systems.~~

~~Existing law requires that, when gas or electric service is provided by a master-meter customer to users who are tenants of a mobilehome park, apartment building, or similar residential complex, the master-meter customer charge each user at the same rate that would be applicable if the user were receiving gas or electricity directly from the gas or electrical corporation. Existing law additionally requires the gas or electrical corporation to establish uniform rates to master-meter customers at a level that will provide a sufficient differential to cover the reasonable average costs to master-meter customers of providing submeter service, except that these costs shall not exceed the average cost that the corporation would have incurred in providing comparable services directly to the users of the service. Existing decisions of the commission refer to this rate differential as the “submeter discount.”~~

~~This bill would require that in any application to recover costs to acquire, improve, upgrade, operate, and maintain transferred mobilehome park or manufactured housing community gas or electric systems, that the gas or electrical corporation include a calculation of the utility’s net costs, including additional income recovered by the utility resulting from the elimination of the submeter discount. The bill would require that when an appraised value is establish for a submetered gas or electric system that is to be transferred by a mobilehome park or manufactured housing community to a gas or electrical corporation, that the appraised value include the value of eliminating the submeter discount.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2791 of the Public Utilities Code is
2 amended to read:

3 2791. (a) The owner of a master-metered mobilehome park
4 or manufactured housing community that provides gas or electric
5 service to residents may transfer ownership and operational
6 responsibility to the gas or electrical corporation providing service
7 in the area in which the park or community is located pursuant to
8 this chapter, or as the park or community owner and the serving
9 gas or electrical corporation mutually agree.

10 (b) A gas or electrical corporation that receives an offer to
11 transfer a gas or electric system from a master-metered mobilehome
12 park or manufactured housing community that is within its service
13 territory shall accept transfer of the system pursuant to Section
14 2794.

15 (c) Costs, including both costs related to transfer procedures
16 and costs related to construction, related to the transfer of
17 ownership process, whether or not resulting in a transfer of
18 ownership to the serving gas or electrical corporation, shall not be
19 passed through to the park or community residents. Costs related
20 to the transfer of ownership process, whether or not resulting in a
21 transfer of ownership to the serving gas or electrical corporation,
22 shall not be passed through to the gas or electrical corporation,
23 except as otherwise provided in this chapter.

24 (d) Residents of mobilehome parks and manufactured housing
25 communities constructed after January 1, 1997, shall be
26 individually metered and served by gas and electric distribution
27 facilities owned, operated, and maintained by the gas or electrical
28 corporation providing the service in the area where the new park
29 or community is located consistent with the commission's orders
30 regarding unbundling, aggregation, master-metering, and selection
31 of suppliers by residential customers. Each gas and electrical
32 corporation shall cooperate with the owner of any park or
33 community constructed after January 1, 1997, to ensure timely
34 and expeditious installation of the gas and electric distribution
35 system and to eliminate any delay in the design, construction,

1 permitting, and operation of the gas and electric system in the park
2 or community.

3 SEC. 2. Section 2792 of the Public Utilities Code is amended
4 to read:

5 2792. (a) Upon receipt of a written notice of intent to transfer
6 from the mobilehome park or manufactured housing community
7 owner, the gas or electrical corporation shall assign a representative
8 of the gas or electrical corporation who will have responsibility
9 for oversight of the proposed transfer pursuant to the chapter, until
10 the transfer is complete or the transfer process is terminated. The
11 gas or electrical corporation shall notify the commission and the
12 owner of the park or community of the identity of the assigned
13 representative, and within 90 days, do all of the following:

14 (1) Meet with the park or community owner to describe the
15 procedures involved in a transfer of ownership and operation
16 responsibility.

17 (2) Perform a preliminary review of the gas or electric system,
18 or both, in the park or community.

19 (3) Inspect documentation provided by the park or community
20 owner of the construction, operation, and condition of the gas or
21 electric system, or both.

22 (4) Advise the park or community owner concerning the general
23 condition of the plant and equipment, along with a preliminary
24 opinion concerning the extent of construction work or other activity
25 necessary to comply with Section 2794.

26 (5) Offer a preliminary nonbinding estimate of the cost of
27 transfer.

28 (6) Offer the park or community owner a preliminary nonbinding
29 cost estimate to perform an engineering evaluation and estimate
30 the construction work and equipment replacement to be performed
31 by the gas or electrical corporation at the owner's expense.

32 (b) The gas or electrical corporation shall develop the cost
33 estimate for the engineering evaluation in good faith using the
34 same methodology as is used for similar projects. The preliminary
35 cost estimate shall be effective for a minimum of 90 days. The gas
36 or electrical corporation shall give the owner timely notice of any
37 increase in the estimated cost of the engineering evaluation.

38 (c) The gas or electrical corporation may charge a fee for the
39 initial inspection not to exceed one hundred fifty dollars (\$150).

1 (d) The gas or electrical corporation shall provide the
2 commission with a copy of all of the following:

3 (1) The written notice of intent to transfer from the owner of
4 the park or community.

5 (2) Any report of the results of the preliminary review of the
6 gas or electric system, or both, in the park or community
7 undertaken pursuant to paragraph (2) of subdivision (a).

8 (3) Any report of the inspection undertaken pursuant to
9 paragraph (3) of subdivision (a).

10 (4) The preliminary nonbinding estimate of the cost of transfer
11 offered to the park or community owner pursuant to paragraph (5)
12 of subdivision (a).

13 (5) The preliminary nonbinding cost estimate for performing
14 an engineering evaluation and estimate of the construction work
15 and equipment replacement offered to the park or community
16 owner pursuant to paragraph (6) of subdivision (a).

17 (e) Upon receipt of the materials supplied by the gas or electrical
18 corporation pursuant to subdivision (d), the commission shall
19 monitor and facilitate the transfer, until the transfer is complete or
20 the transfer process is terminated.

21 SEC. 3. Section 2793 of the Public Utilities Code is amended
22 to read:

23 2793. (a) Upon receipt from the park or community owner of
24 a deposit representing the gas or electrical corporation's estimated
25 cost of the engineering evaluation, the gas or electrical corporation
26 shall, within 90 days, do all of the following:

27 (1) Develop an engineering plan for bringing the gas or electric
28 system to the standard described in Section 2794, incorporating
29 all relevant documentation including plans, drawings, engineering
30 studies, and other existing documentation provided by the park or
31 community owner, and considering incorporation of all portions
32 of the gas or electric system found to be used, useful, and
33 compatible.

34 (2) Develop an appraisal of the value to the gas or electrical
35 corporation of the physical plant and equipment found to be used,
36 useful, and compatible that comprise the gas or electric system,
37 or both, to be transferred, including an estimate of the remaining
38 useful life of the gas or electric system. The value to the gas or
39 electrical corporation shall take into consideration the expenditures

1 by the park or community owner to comply with the criteria
2 established in Section 2794.

3 (3) Present a proposal, in sufficient detail, to serve as a bid
4 document for the transfer of ownership of the system to the gas or
5 electrical corporation.

6 (b) The proposal may be based on either of the following
7 approaches or as the park or community owner and the gas or
8 electrical corporation mutually agree:

9 (1) The park or community owner is responsible for all
10 construction and equipment replacement activity, if any, at the
11 park or community owner's expense less any credits or allowances,
12 if any, including credits or allowances based on incremental
13 increases in the gas or electrical corporation's revenues associated
14 with the park or community owner's investment in the gas or
15 electric system. The construction and equipment replacement and
16 the credits and allowances shall be based on the principles
17 established in the gas or electrical corporation's line and service
18 extension rules, if applicable.

19 (2) The gas or electrical corporation shall pay the park or
20 community owner for the appraised value to the gas or electrical
21 corporation of any gas or electric distribution facilities found to
22 be used, useful, and compatible. If any new facilities are necessary,
23 the park or community owner shall be responsible for the costs of
24 the excavation, installation of substructures, conduit and meter
25 panels, and surface repairs. Except as provided in paragraph (4)
26 of subdivision (c), the gas or electrical corporation shall be
27 responsible for the costs of any additional construction and
28 equipment replacement, including cabling and transformers.

29 (c) The proposal shall include the following:

30 (1) A description of construction and equipment replacement
31 activity, if any, to be accomplished at the park or community
32 owner's expense.

33 (2) Requirements for any additional provisions or rights for the
34 construction or maintenance of public utility facilities on park or
35 community premises, including easements and rights-of-way
36 acceptable to the gas or electrical corporation.

37 (3) Any specific requirements or costs, or both, with respect to
38 the presence of used and useful materials or equipment that are
39 nonstandard, including, but not limited to, inventory requirements,

1 specialized equipment requirements, or specialized personnel or
2 training.

3 (4) Any specific requirements or costs, or both, with respect to
4 the presence of exceptional construction conditions or operation
5 and maintenance conditions.

6 (d) If the actual cost of the engineering evaluation is greater
7 than the gas or electrical corporation estimate, the park or
8 community owner shall pay the gas or electrical corporation the
9 difference within 30 days of receipt of notice. If the actual cost of
10 the engineering evaluation is less than the deposit, the gas or
11 electrical corporation shall pay the park or community owner the
12 difference within 30 days. The content of the proposal shall become
13 the property of the park or community owner.

14 (e) Within 90 days of receipt of the proposal for transfer of
15 ownership, a park or community owner may do any of the
16 following:

17 (1) Present objections to the gas or electrical corporation in
18 writing for resolution and may require mediation of the commission
19 if the parties are unable to resolve the objection. In any mediation,
20 the commission, at the expense of the gas or electrical corporation,
21 shall obtain the services of an independent qualified professional
22 to evaluate the system inspection and valuation and to advise the
23 commission.

24 (2) Decline to proceed, without prejudice to the right to present
25 a new notice at any future date.

26 (3) Accept the proposal and contract with the gas or electrical
27 corporation for completion of the construction work and equipment
28 replacement, if any, or the acquisition of the gas or electric system,
29 or both.

30 (4) Accept the proposal and contract with an approved third
31 party for completion of the construction work and equipment
32 replacement, if any, in accordance with the applicable gas or
33 electrical corporation applicant installation rules.

34 (f) Any new facilities provided by the gas or electrical
35 corporation to extend distribution or service facilities from the
36 existing gas or electrical corporation system within the park to
37 previously undeveloped locations shall be provided in accordance
38 with line extension rules and service extension rules contained in
39 gas or electrical corporation tariffs filed with the commission,

1 including any and all free extensions, allowances, and advances
2 subject to refund.

3 (g) Upon completion of construction work and equipment
4 replacement, if any, receipt of appropriate inspection approval
5 from the gas or electrical corporation and authorities having
6 jurisdiction for the inspections, and completion of all financial
7 transactions among the parties, the park or community owner shall
8 transfer and the gas or electrical corporation shall acquire
9 ownership and operational responsibility for the gas or electric
10 system.

11 (h) Upon receipt of the proposal described in paragraph (3) of
12 subdivision (a), the park or community owner shall notify the park
13 residents concerning the pendency of a transfer process request
14 and the provisions of the transfer process law.

15 SEC. 4. Section 2794 of the Public Utilities Code is amended
16 to read:

17 2794. (a) If a gas or electric system is acceptable for transfer
18 pursuant to the criteria in this section, the gas or electrical
19 corporation shall approve the transfer, accept ownership and
20 operational responsibility, and purchase; the gas or electric system.
21 A gas or electric system shall be acceptable for transfer if it is in
22 compliance with the following criteria:

23 (1) It was constructed to meet the building and safety regulatory
24 standards in effect at the time of construction.

25 (2) It is capable of providing the end users a safe and reliable
26 source of gas or electric service.

27 (3) It meets the commission's general orders, is compatible,
28 and, in the case of new construction only, meets the gas or electrical
29 corporation's design and construction standards insofar as they
30 are related to safety and reliability. The parties may waive these
31 requirements by mutual agreement and, where necessary, with
32 commission approval. The deviations as are agreed upon may be
33 reflected in the purchase price.

34 (4) For a gas system, it meets any applicable federal safety
35 standards adopted by the Pipeline and Hazardous Materials Safety
36 Administration of the Department of Transportation, or a successor
37 federal entity, including any applicable minimum federal safety
38 standards in Part 192 of Title 49 of the Code of Federal
39 Regulations.

1 (5) It is capable of serving the customary expected load in the
2 park or community determined in accordance with a site-specific
3 study, studies of comparable parks or communities, industry
4 standards, and the gas or electrical corporation's rules as approved
5 by the commission.

6 (b) As used in this section, "customary expected load" means
7 the anticipated level of service demanded by the existing dwelling
8 units in the park or community. The park or community owner
9 shall not be responsible for betterments or improvements to the
10 gas or electrical corporation's distribution system facilities or
11 operations that do not benefit the park or community, in contrast
12 to those that benefit the gas or electrical corporation or its other
13 customers.

14 (c) Satisfaction of the criteria shall not require any particular
15 system architecture or replacement of used and useful equipment,
16 plant, or facilities, except as needed to comply with subdivision
17 (a). Equipment, facilities, or plant that are part of the existing gas
18 or electric system shall be considered compatible unless their
19 presence in the system would cause substantial increase in the
20 frequency or duration of outages in the case of failure or
21 emergency, or they have no remaining useful life. Pursuant to
22 subdivision (c) of Section 2793, equipment, facilities, or plant that
23 require special training for the gas or electrical corporation's
24 employees, or require the gas or electrical corporation to maintain
25 inventories of nonstandard equipment may be considered
26 compatible, but their presence may be reflected in the appraised
27 value or the cost imposed on the park or community owner. ~~The~~
28 ~~appraised value shall include the value of eliminating the submeter~~
29 ~~discount. For purposes of this subdivision and Section 2797,~~
30 ~~"submeter discount" means the differential between the~~
31 ~~master-meter rate paid by the operator of the master-metered~~
32 ~~mobilehome park or manufactured housing community to the gas~~
33 ~~or electrical corporation, as fixed by the commission pursuant to~~
34 ~~Section 739.5, and the applicable rate charged by the gas or~~
35 ~~electrical corporation to its customers that are not master-meter~~
36 ~~customers.~~

37 SEC. 5. Section 2795 of the Public Utilities Code is amended
38 to read:

39 2795. The park or community owner and the gas or electrical
40 corporation shall develop a cost for the transfer of the gas or

1 electric system that reflects the factors in Section 2793, indemnity
2 and liability issues, and any other factors as the parties may
3 mutually agree upon, and to which the gas or electrical
4 corporation's ratepayers are indifferent. The parties may agree on
5 a schedule for phasing in facilities to meet expected load increases
6 and betterments, and the costs associated with those activities.

7 SEC. 6. Section 2796 of the Public Utilities Code is amended
8 to read:

9 2796. (a) During the pendency of a transfer request, the owner
10 of the park or community shall be responsible for the continued
11 maintenance to preserve the integrity of the park or community
12 gas or electric system and safe and reliable operation of the park
13 or community system in accordance with applicable laws.

14 (b) During the pendency of a transfer request the owner of the
15 park or community shall be liable for injury and damage resulting
16 from operation of the submetered gas and electric system. After
17 transfer, the gas or electrical corporation shall assume responsibility
18 for operation of the gas or electric system and provision of service
19 to residents of the park or community and shall assume liability
20 for any future injury or damage resulting from operation of the
21 gas or electric system except with respect to defects known to the
22 park or community owner and not disclosed to the gas or electrical
23 corporation during the transfer of ownership process.

24 SEC. 7. Section 2797 of the Public Utilities Code is amended
25 to read:

26 2797. The commission shall permit the gas or electrical
27 corporation to recover in its revenue requirement and rates all costs
28 to acquire, improve, upgrade, operate, and maintain transferred
29 mobilehome park or manufactured housing community gas or
30 electric systems. ~~In any application to recover costs pursuant to~~
31 ~~this section, a gas or electrical corporation shall include a~~
32 ~~calculation of the utility's net costs to acquire, improve, upgrade,~~
33 ~~operate, and maintain transferred mobilehome park or~~
34 ~~manufactured housing community gas or electric systems, including~~
35 ~~additional income resulting from the elimination of the submeter~~
36 ~~discount.~~

37 SEC. 8. Section 2798 of the Public Utilities Code is amended
38 to read:

39 2798. (a) The commission shall adopt a standard form of
40 agreement for transfer of gas and electric distribution facilities in

1 mobilehome parks and manufactured housing communities that
2 shall be the basis for expedited approval of the transfers. The
3 contract shall be based on this chapter, the regulations of the
4 commission, and on gas or electrical corporation rules and
5 regulations, as approved by the commission.

6 (b) The owner of a master-metered mobilehome park or
7 manufactured housing community may bring a complaint before
8 the commission for violation of any requirement of this chapter
9 by a gas or electrical corporation. The commission shall establish
10 an expedited procedure, pursuant to Article 1 (commencing with
11 Section 1701) of Chapter 9 of Part 1, for the review of the
12 complaint. The commission shall ensure that the expedited
13 procedure results in a final determination of the issues raised by
14 the complaint not later than one year after filing of the complaint.
15 Nothing in this subdivision limits the authority of the commission
16 to open an appropriate proceeding in order to monitor and facilitate
17 the transfer pursuant to subdivision (e) of Section 2792.

18 SEC. 9. Section 2799 of the Public Utilities Code is amended
19 to read:

20 2799. (a) The mobilehome park or manufactured housing
21 community owner may, by written notice, stop the transfer process
22 at any time. Within 60 days of delivery to the park or community
23 owner of an itemized bill, the owner shall reimburse the gas or
24 electrical corporation for all costs incurred through the date notice
25 is provided.

26 (b) At any time during the transfer of ownership process, either
27 party may apply to the commission for informal mediation and
28 resolution of any issue, finding, determination, or delay in the
29 conversion process.

30 (c) If the initiation of the transfer process does not result in a
31 transfer of the park or community owner's gas or electric system
32 to the gas or electrical corporation, all information, data, reports,
33 studies, and proposals shall be retained by the gas or electrical
34 corporation for a period of five years or offered to the park or
35 community owner. Prior to disposal of the records, the gas or
36 electrical corporation shall offer them to the park or community
37 owner, except that the gas or electrical corporation shall not be

- 1 required to provide proprietary information to the park or
- 2 community owner.

O